

REMARKS

Introduction:

The Office Action dated March 26, 2004 has been received and carefully studied. Claims 4 and 20-24 have been canceled and New claims 25-28 have been added. Claims 1-3, 5-8, 10, and 12-13 stand rejected. Reconsideration is respectfully requested.

Claim Amendments

Claim 1 has been amended to include the subject matter of dependent claim 4 and to remove the subject matter now recited in new dependent claim 25. Claim 1 has also been amended to recite “rotatable” polygon mirrors and the requirement for first and second motors deleted. Claims 4 and 20-24 have been canceled. New independent claim 26 and dependent claims 27-28 have been added to more broadly recite certain aspects of the invention. The new claims are fully supported by the specification and no new matter has been added.

Double Patenting Rejections

The Examiner has rejected Claim 1 under 35 U.S.C. § 101 on the grounds of statutory double patenting, contending that claim 1 recites the same invention as claim 9 of issued Patent No. 6,631,845. Applicant respectfully disagrees. Claim 9 of the ‘845 patent recites “wherein axes of rotation of said first and second motors are not substantially parallel.” This limitation is not recited in pending claim 1. Because the scope of claim 9 of the ‘845 patent and pending claim 1 are different, the statutory double patenting rejection is improper and should be withdrawn. (Applicant further notes that claim 16 in the ‘845 patent recites first and second motors, a limitation not present in claim 1, as amended.)

The Examiner has rejected claims 2-8 and 10-14 on the grounds of obviousness-type double patenting over claims 1-14 of the ‘854 patent in view of Patent No. 5,343,029. Applicant will consider this rejection as also being applied to claim 1. Claims 20-24 stand rejected on the grounds of obviousness-type double patenting over claims 7, 13, 16, and 17 of the ‘854 patent.

Submitted herewith is a Terminal Disclaimer of the present application with reference to the '854 patent. According, the obviousness-type double patenting rejection of claims 1-8, 10-14 and 20-24 has been traversed and should be withdrawn.

Rejection under 35 U.S.C. § 103

Claims 1-3, 6, 8, 10 and 12-13 stand rejected under 35 U.S.C. § 103(a) as being obvious over Patent No. 5,475,207 to Bobba et al. in view of Patent No. 5,343,029 to Katoh et al. Dependent claim 7 stands rejected as being obvious over Bobba et al. and Kato '029 in further view of Patent No. 5,869,827 to Rando. Dependent claim 11 stands rejected as being obvious over Bobba et al. and Katoh '029 in further view of Patent No. 5,206,491 to Katoh et al.

While Bobba et al., Katoh '029, Rando, nor Katoh '491 all disclose scanning devices, none of these references teach or suggest providing a two-window scanner with substantially vertical and horizontal windows that includes "an indicator for indicating that said substantially vertical window is to be used when a component related to said first light source fails and for indicating that said substantially horizontal window is to be used when a component related to said second light source fails" as recited in claim 1 as amended. (This limitation was previously recited in canceled dependent claim 4 which, applicant notes, was rejected only on the grounds of obviousness-type double patenting.) Accordingly, even assuming, solely for the same of argument, that the combinations proposed by the Examiner were proper, such combinations would not result in the invention recited in amended claim 1.

Therefore, applicant submits that the rejection of claim 1 has been traversed and should be withdrawn. Dependent claims 2, 3, 5-8, 10, 12-13, and new dependent 25 are allowable over these references for at least the same reasons.

Because claims 20-24 have been canceled, the rejection of these claims is moot.

New claims 26-28

New independent claim 26 recites a two window scanning device that has respective first and second light source associated with each window. Claim 26 further recites that the scanning device has “an indicator for indicating that said second window is to be used when a component related to said first light source fails and for indicating that said first window is to be used when a component related to said second light source fails.” For the reasons discussed with respect to claim 1, above, applicant submits that new independent claim 26 and new dependent claims 27-28 are also allowable over the cited Bobba et al., Katoh ‘029, Rando, and Katoh ‘491 references.

CONCLUSION

Each and every issue raised by the Examiner has been addressed by the above amendments and remarks. Withdrawal of the rejections and allowance of the claims are respectfully requested. However, should the Examiner believe that direct contact with the applicant’s attorney would advance the progress of the application, the Examiner is invited to telephone the undersigned at the number below.

Respectfully submitted,



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